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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding Observations of the Human Rights Committee

Morocco

1. The Committee considered the fourth periodic report of Morocco (CCPR/C/115/Add.1) at its 1788th, 1789th and 1790th meetings (CCPR/C/SR. 1788 - 1790) held on 20 and 21 October 1999 and adopted the following concluding observations at its 1802nd meeting (CCPR/C/SR. 1802) held on 29 October 1999.

A. Introduction

2. The Committee welcomes the fourth periodic report of Morocco (CCPR/C/115/Add.1), which was submitted in time. While the Committee appreciates the information provided on the new Constitution and other legislation adopted since the examination of Morocco's third periodic report, it notes that little information was provided on the actual application of these laws through the granting of remedies, or on the reality of the human rights situation.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the 1996 Constitution, providing, *inter alia*, for the protection of certain Covenant rights and the steps taken towards democratization since the examination of Morocco's third report in 1994. It welcomes the recognition by the State party of the need for

reforms to implement fully Covenant rights and the recent statements at the highest level to this effect. It encourages Morocco to accelerate the ongoing process of reviewing its legislation and enacting laws to give effect to the provisions of the Covenant.

4. The Committee welcomes the commutation of death sentences which has applied since 1994, and the new autopsy procedures in cases of death in custody. It also welcomes the release of many prisoners, the granting of passports to some government opponents and the return from exile of others, and the provision of medical examination for detainees.

5. The Committee notes with satisfaction the establishment of a Ministry of Human Rights, a Consultative Council on Human Rights which has reported on many cases of disappearance, and a Commission of Arbitration to provide compensation to victims of arbitrary detention and to the families of disappeared persons. The establishment of a National Observatory for the Rights of the Child and a National Plan of Action for the Integration of Women are particularly welcome.

6. The Committee welcomes the fact that the State party has entered into an agreement with the Office of the United Nations High Commissioner for Human Rights to establish a centre for documentation and education in human rights to provide for human rights training in Morocco. It also welcomes the action taken by the State party in regard to human rights training for the legal profession and the media.

C. Principal subjects of concern and recommendations

7. The Committee observes that while it is stated that the Covenant is part of domestic law, the effect of this on many laws which appear to be incompatible with the Covenant is unclear. The Committee is also concerned that there is no agency fully independent of Government with general responsibility for monitoring the implementation of human rights (article 2).

8. The Committee encourages the State party to ratify the Optional Protocol.

9. The Committee remains concerned about the very slow pace of the preparations toward a referendum in Western Sahara on the question of self-determination, and at the lack of information on the implementation of human rights in that region.

The State Party should move expeditiously and co-operate fully in the completion of the necessary preparations for the referendum (articles 1 and 2).

10. The Committee reiterates its concern that many cases of disappeared persons in Morocco have not yet been resolved by or referred to the Consultative Council on Human Rights, and that according to the delegation it is not yet timely to investigate the responsibility for those disappearances.

It urges the State party to intensify investigations into the whereabouts of all persons reportedly missing, to release any such persons who may still be held in detention, and to provide lists of prisoners of war to independent observers, to inform families about the location of the graves of disappeared persons known to be dead, to prosecute the persons responsible for the disappearances or deaths, and to provide compensation to victims or their families where rights have been violated.

11. The Committee notes that Moroccan law does not specify or limit the derogations on rights which are permitted in time of public emergency and does not ensure compliance with article 4 of the Covenant.

The State party should ensure that its law and practice are in full compliance with its obligations under article 4.

12. The Committee regrets the lack of specific information in the report about the de facto situation of women in Morocco and observes that the high rate of female illiteracy reported by the delegation underlines the lack of equal opportunity for women in all aspects of society. It continues to be deeply concerned about the extent of discrimination against Moroccan women in education, in employment, in public life and in criminal and civil laws, including laws dealing with inheritance, marriage, divorce, family relations, for examples, polygamy, repudiation of marriage, grounds for divorce, age of marriage and restrictions

on marriage by muslim women to non-muslims. It notes with concern that the Constitutional guarantees of women's equality extend only to political rights.

The State party is urged to intensify its efforts to overcome illiteracy, lack of education and all forms of discrimination against women, to implement fully the guarantee of equality contained in the Covenant (and in particular articles 2(1), 3, 23, 25 and 26) and to ensure the equal enjoyment by women of all rights and freedoms.

13. The Committee notes with concern that the strict prohibition on abortion, even in cases of rape or incest, and the stigmatization of women who give birth to children outside marriage results in clandestine, unsafe abortions which contribute to a high rate of maternal mortality.

The State party should ensure that women have full and equal access to family planning services and to contraception and that criminal sanctions are not applied in such a way as to increase the risk to life and health of women.

14. The Committee notes with concern that there are no special programmes, legal sanctions or protective measures to counter violence and sexual abuse of women, including marital rape, and that there are aspects of the criminal law (such as the crime of honour defence) which fail to provide equal protection of women's rights under articles 7 and 9 of the Covenant.

Legal and protective measures should be adopted to guarantee women's rights to personal security.

15. The Committee reiterates its concern at the number of offences which remain subject to the death penalty.

The State party should bring its laws into line with its current policy by abolishing the death penalty altogether and, in any event, should limit the application of the death penalty to the most serious offences as required by article 6 of the Covenant. The Committee also urges the State party to fulfill its undertaking to release a list of all persons under sentence of death.

16. The Committee is concerned at the number of allegations of torture and ill-treatment of detainees by police officials, and that these have been dealt with, if at all, only by disciplinary action and not by the imposition of criminal sanctions on those responsible for such violations.

In fulfilment of its obligations under article 7 of the Covenant, the State party should adopt firm measures to eradicate the practice of torture and enact legislation to make torture a criminal offence and to exclude the admissibility in evidence of any confession or statement obtained by torture or duress; appropriate mechanisms should be established for independent monitoring of police detention centres and penitentiaries, all reports of torture and ill-treatment must be investigated, the persons responsible should be prosecuted, and victims of torture must be granted compensation.

17. The Committee notes with concern that the maximum length of detention of a suspect before being brought before a judge may in some cases be as long as 96 hours, that the Crown Prosecutor General has power to extend this period, and that persons detained may not have access to counsel during this period. The Committee is also concerned about the length of pre-trial detention.

The State party should ensure that its laws and procedures comply with the guarantees of article 9.

18. The Committee is concerned that the fair trial guarantees of article 14, such as the presumption of innocence and the right to appeal in criminal cases, are not fully reflected in the Constitution or in the Code of Criminal Procedure. It is also concerned that there is no review by higher courts of decisions handed down by special courts like the Permanent Court of the Royal Armed Forces and the Special Court of Justice.

The State party should adopt appropriate legislation so as to guarantee the presumption of innocence, as required under article 14(2) of the Covenant, and ensure a right of appeal in all criminal cases in keeping with article 14(5) of the Covenant.

19. The Committee regrets the continued existence of legislation allowing the court to order imprisonment for debt arising from a contractual obligation, despite a

decision by the Administrative Tribunal of Rabat, holding that imprisonment
not be imposed in a particular case of this kind because it violates Morocc
obligations under the Covenant.

Sections 673 et seq. of the Code of Criminal Procedure should be amended
as to comply with article 11 of the Covenant.

20. The Committee regrets the lack of specific information in the report concern
the law and practice in relation to freedom of movement within the territory
the right to enter and to leave the territory of the State party. In particul
it is not clear under which laws exile may be imposed or withdrawn or how
right to obtain a passport and, where applicable, an exit visa can be enfor
by individuals.

The State party should ensure that its laws are in full conformity w
article 12 of the Covenant, that the laws are transparent and that effect
remedies are available to enforce the rights protected by article 12.

21. The Committee is concerned that the impartiality of the judiciary is not fu
ensured in accordance with article 14(1).

The State party should take steps to guarantee the independence
impartiality of the judiciary, and in particular to ensure that there
effective and indepedent disciplinary mechanisms.

22. The Committee continues to be concerned that freedom of religion and belief
not fully guaranteed. In this regard it observes that the Covenant requi
religious freedom to be respected in regard to persons of all religi
convictions, and not restricted to monotheistic religions that the right
change religion should not be restricted directly or indirectly.

The State party should take measures to ensure respect for freedom
religion and belief, and ensure that its laws and policies fully comply w
article 18 of the Covenant.

23. The Committee continues to be concerned that the Moroccan Press Code inclu
provisions (e.g. articles 42, 64, 77) which severely restrict freedom

expression by authorising seizure of publications and by imposing penalties for broadly defined offences (such as publishing inaccurate information or undermining the political or religious establishment). It is deeply concerned that 44 persons have been imprisoned for offences under these laws. In addition, the Committee is particularly concerned that persons expressing political views opposing the government or calling for a republican form of government have been sentenced to imprisonment under article 179 of the Penal Code for the offence of insulting members of the royal family. These laws and their application appear to exceed the limits permitted by article 19(3).

The State party should amend or repeal the dahir of 1973 and bring all its criminal and civil laws into full compliance with article 19 of the Covenant and release persons whose conviction and imprisonment are incompatible with those provisions.

24. The Committee is concerned at the breadth of the requirement of notification for assemblies and that the requirement of a receipt of notification of an assembly is often abused, resulting in de facto limits of the right of assembly, ensured in article 21 of the Covenant.

The requirement of notification should be restricted to outdoor assemblies and procedures adopted to ensure the issue of a receipt in all cases.

D. Dissemination of Information about the Covenant (article 2)

25. The Committee sets the date for the submission of Morocco's fifth periodic report as 31 October 2003. That report should be prepared in accordance with the Committee's (new) Guidelines and should give particular attention to the situation of women, the problem of the disappeared and to the other issues raised by the Committee in these Concluding Observations. The Committee urges the State party to make available to the public as well as to the legislative and administrative authorities the text of these concluding observations in multiple languages. It requests that the next periodic report be widely disseminated among the public, including civil society and non-governmental organisations operating in Morocco.